



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

SACHI A. HAMAI
Chief Executive Officer

March 3, 2016

To: Supervisor Hilda Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai 
Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

REPORT ON RECOMMENDATIONS TO IMPLEMENT THE OFFICE OF MANAGEMENT BUDGET UNIFORM GUIDANCE RELATED TO PAYING THE REASONABLE INDIRECT COSTS OF NONPROFIT SERVICES (ITEMS NO. 2 OF NOVEMBER 3, 2015)

On November 3, 2015, a motion by Supervisors Solis and Kuehl directed the Chief Executive Officer (CEO), Interim Director of the Internal Services Department (ISD) and the Auditor-Controller to (1) Report back to the Board within 120 days with recommendations on implementation of the Office of Management Budget (OMB) Uniform Guidance related to paying the reasonable indirect costs of nonprofit services with Federal funds in Los Angeles County; (2) In developing these recommendations, consult with County nonprofit and philanthropic leaders; and (3) Send a five-signature letter urging State leadership in implementation of the OMB Uniform Guidance related to nonprofits.

On November 10, 2015, a letter (Attachment 1) signed by all Board members was forwarded to the Governor requesting his leadership and advocacy related to the implementation of the Guide. As a result, Part 3 of the Board motion has been completed.

This memorandum serves as a response to Parts 1 and 2 of the Board motion and details below the background, and efforts and recommendations of the CEO, Interim Director of ISD, and the Auditor-Controller (County) to implement the OMB Uniform Guidance related to the appropriate reimbursement of nonprofits agencies, negotiated Federal indirect rates and the reduction of burdensome administrative requirements.

Background

OMB Uniform Guidance

In October 2011, OMB created the interagency Council on Financial Assistance Reform (COFAR) in response to presidential directives for more efficient, effective, and transparent government. COFAR was tasked with streamlining the Federal government's guidance on administrative requirements, cost principles, and audit requirements for Federal awards. The changes aligned with a larger Federal effort to more effectively focus Federal resources on improving performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders.

On December 26, 2013, COFAR published the Uniform Guidance (Guide) which consolidated the OMB Circulars A-21, A-50, A-87, A-102, A-110, A-122, and A-133 into a grant management policy guide (Federal Register, Vol. 78, No. 248). The Guide is applicable to new and incremental Federal awards issued on or after December 26, 2014.

The purpose of the Guide is to eliminate duplicative and conflicting guidance from the numerous OMB circulars, focus on performance over accountability, and provide for consistent treatment of costs, place limits on allowable costs, and target audit requirements in an effort to avoid waste and fraud in the use of Federal funds. In addition, the Guide reduces the administrative burden for non-Federal entities receiving Federal awards.

The County serves as a pass-through entity for many Federal programs. As such, the County is the initial awardee and provides sub-awards to sub-recipients (such as nonprofit agencies) who carry out the Federal programs. The Guide requires that pass-through entities provide sub-recipients with information regarding the origins of the Federal funds and information about the Federal program being funded.

The Guide also recommends that the pass-through entities provide sub-recipients with training and technical assistance on program related matters to ensure proper accountability and compliance with program and Guide requirements, and achievement of performance goals.

Report on Nonprofit Government Contracts and Grants: National and California Findings

In December 2013, the Urban Institute released a report, "*Nonprofit-Government Contracts and Grants: Findings From the 2013 National Survey*," detailing its findings from a national survey on nonprofits contracting with governments. The report noted that nonprofit organizations across the nation face complex and burdensome

administrative issues as part of their contracting process with government. Their issues were compounded by limited compensation for the full cost of their services, especially indirect cost.

In September 2015, the Urban Institute released a subsequent report entitled "*Nonprofit-Government Contracts and Grants: California Findings*" (Boris Report) which identified five issues that California nonprofits faced when contracting with governments:

1. Government payments do not cover the full cost of providing agreed upon services;
2. Complex application requirements increase the administrative overhead of nonprofits;
3. Time consuming reporting requirements overburden nonprofits;
4. Midstream changes to already approved contracts and grants limit the ability of nonprofits to maximize staffing and operational issues; and
5. Late payments for services impact the financial stability of nonprofits.

The Boris Report also noted that "addressing the administrative burdens by developing streamlined reporting and application processes and paying nonprofits the full cost of services on time would allow nonprofits to focus more time and effort on achieving the public-service missions that government and nonprofits share."

Sub-recipient Indirect Cost Recovery

The Guide requirements allow sub-recipients different options to recover their indirect costs. However, the different options do not necessarily result in sub-recipients recovering more indirect costs than pre-Guide requirements covered by the OMB Circulars. The Guide allows pass-through entities to reimburse sub-recipients' indirect costs by applying the sub-recipients' federally negotiated indirect cost rates, if they already exist. If a negotiated rate does not yet exist, then sub-recipients are empowered to either negotiate a rate directly with the Federal cognizant agency or to elect the default rate of 10 percent of their modified total allowable direct cost.

Sub-recipients negotiating a federally approved indirect cost rate are required to provide documentation which outlines their actual cost to the Federal cognizant agency. As such, if the indirect cost rates are determined to be less than the default rate of 10 percent by the Federal cognizant agency, the sub-recipients would be required to use the lower federally approved indirect cost rate.

One issue that the County's nonprofit contractors shared with the County was the nonprofits' inability to fully recover their indirect costs. Even nonprofit organizations with federally approved indirect cost rates above 10 percent were subjected to limits below

their federally approved rates due to limitations imposed by the Federal funding sources. As a pass-through entity, and in some cases as a sub-recipient, the County is required to follow the same indirect cost limitations. As a result, the limitations imposed on the County's nonprofit contractors to recover their supported and allowable indirect costs are based on limitations imposed by the Federal or State funding sources and not the County.

County Efforts to Implement the New OMB Guidelines

Jurisdictions across the country have begun the process of educating their contracting staff about the new OMB Guidelines. Most efforts have entailed ensuring that staff understands their new responsibilities related to the Guide and are consistently implementing the new procedures across all types of Federal contracts and awards.

In February 2015, the Auditor-Controller began training County staff on the Guide and its requirements. Over the last 12 months, the Auditor-Controller has conducted four trainings with departmental contracting and monitoring staff on understanding their responsibilities related to the Guide and how best to message to nonprofit contractors information relevant to solicitation requests. Approximately 330 departmental fiscal, budget and contract managers and staff have attended these trainings. The Auditor-Controller will continue to conduct these trainings on an as-needed basis.

Even before the roll-out of the Guide, the County proactively developed a number of programs to better improve its contract solicitation and contract monitoring processes. Specifically:

- ISD expanded its *Contracts Managers Group* meetings to include Contract Monitoring Managers. The quarterly meetings are held to discuss contract developments, administration and monitoring issues from a countywide perspective. Including contract monitoring managers in these meetings ensures that both groups will receive consistent information and trainings, and will have an opportunity to identify inefficiencies that complicate the contracting and monitoring process.
- ISD, the Auditor-Controller, County Counsel, and CEO Risk Management have conducted joint trainings related to a variety of contract-related issues. Examples of these trainings include:
 - Two and half-day training on Basic Principles to Contracting
 - Training on the development of evaluation documents
 - Training on contract monitoring

- ISD is piloting an effort which reduces the number of copies required by proposers submitting proposals for contracting opportunities. This streamlining effort is being reviewed and assessed for possible countywide implementation.
- County Counsel implemented a Practice Workgroup comprised of counsels from each division. The group meets periodically to ensure consistency with provisions and language in County service contracts.

The Auditor-Controller will continue to assist departments in the implementation of the Guide to ensure its consistent application. Also, ISD will continue to review countywide contracting efforts to streamline the application and administrative processes where possible.

County Efforts in Consulting with Nonprofit and Philanthropic Organizations

The County conducted two focus groups attended by representatives from a number of nonprofit organizations and one focus group attended by representatives from philanthropic organizations. In addition, in preparation for the focus groups, the County sent a survey to a number of nonprofit organizations to solicit their feedback.

Survey Results

To better understand the experience of nonprofits organizations contracting with County departments and their basic infrastructure, a survey of currently contracting nonprofits was conducted. Over 100 nonprofit organizations were invited to complete the 15-question survey. Forty-nine respondents completed the survey and the results indicated the following:

- 84 percent describe their organization as providing human services related programming;
- 91 percent have operational budgets in excess of \$1M;
- Most have multiple contracts with County departments;
- Most contract with the Departments of Mental Health and Children and Family Services;
- 82 percent receive payments within 60 days of invoicing the County;
- 61 percent have County contracts with maximum indirect rates of 10 percent;
- 77 percent have not negotiated a federally approved indirect cost rate and 80 percent have not received training on how to negotiate an indirect cost rate; and
- 83 percent are interested in attending a presentation on how to negotiate a federally approved indirect cost rate.

Focus Group Results

Focus groups were conducted to provide nonprofit organizations with an opportunity to share their thoughts on contracting with the County and indirect costs. Over forty nonprofit agencies participated in the focus groups and provided feedback on the County's contracting process and their particular needs related to the new Federal Guide. Their comments centered on application/Request for Proposal (RFP) processes, contract reporting requirements, and indirect cost rates/administrative costs.

The County also met with leaders from the philanthropic community to better understand their perspective on the Guide and its impact on local nonprofit organizations. Recognition of the role philanthropy plays in supporting the on-going operations of nonprofit organizations was noted and there was consensus on the need to have ongoing dialogue as to how best to work collaboratively to support nonprofits. Philanthropic organizations also noted that their nonprofit funding was most effectively leveraged when not being used as an offset for indirect cost not being appropriately reimbursed. Additionally, suggestions were offered regarding how best to ensure that local nonprofit organizations were aware of and maximizing their ability to request federally approved indirect rates. Other suggestions provided were noted and where appropriately incorporated into the County's recommendations below.

The County's discussions with the nonprofit and philanthropic organizations were substantive and provided greater clarity on the issues experienced by nonprofits partnering with the County. Both groups noted their desire to continue collaborating with the County to support the implementation of the Guide and to provide training to local nonprofits as they seek to obtain their appropriate indirect cost rates and recovery from Federal granting agencies.

Recommended Actions

Based on the nonprofit survey results, focus group feedback and consultation with nonprofit associations and philanthropic communities, the County has identified opportunities to strengthen its existing contracting efforts by reducing administrative duplication while also supporting training opportunities for nonprofits organizations interested in maximizing their indirect cost rates. To that end, the following recommendations were identified:

Recommendation 1

The Auditor-Controller and ISD will develop a one-page disclosure template document that contracting departments will complete and provide to all potential nonprofit contractors/bidders at the issuance of any RFP that involves the use of Federal funds.

This document will ensure that nonprofit contractors are aware that Federal funds are being expended and that requirements in the Guide related to indirect cost rates are adhered to. The disclosure document will contain, at a minimum, the thirteen (13) requirements noted in 2 CFR 200.331 – Requirements for Pass-Through Entities.

Recommendation 2

The Auditor-Controller, working with ISD, will establish a training program that includes the following classes. In establishing the training program, the Auditor-Controller may need to identify the necessary funding and resources:

- On an as-needed basis, the Auditor-Controller will continue to provide training to County staff to ensure that County complies with the Guide requirements.
- On an as-needed basis, the Auditor-Controller will provide Guide training to the County's sub-recipients. The training will cover the Guide's standards for financial and program management, cost principles, and audit requirements, and will also include information on the steps nonprofit contractors need to follow to negotiate a federally approved indirect cost rate.
- On an annual basis, ISD will provide training for organizations interested in learning how to better prepare their proposals for County contracts.

Recommendation 3

The Auditor-Controller will update its handbook to include the most recent OMB Guidance rules, and the most recent County policies and procedures for implementing them.

Recommendation 4

ISD will continue to review and assess its efforts to reduce the number of copies required by applicants with the goal of expanding those efforts countywide.

Recommendation 5

The CEO Service Integration Branch will convene an annual focus group with nonprofit organizations contracting with the County, with participation from the Auditor-Controller and Internal Services Department. The focus group will provide a forum for dialogue and an opportunity for the County to gauge and monitor its efforts to implement the requirements under the Guide while providing nonprofits with an opportunity to voice their perspectives on the County's implementation of the Guide.

Each Supervisor
March 3, 2016
Page 8

Conclusion

This report has provided background on the Federal Uniform Guidance Regulations, County fact finding efforts with respect to the nonprofit advocacy and philanthropic communities, results of both the nonprofit survey and focus groups, and recommendations related to furthering the implementation of the Guide.

This report is respectfully submitted for your Board's consideration.

Please contact me if you have any questions or need additional information, or your staff may contact Cheri Thomas at (213) 974-4603, or via email at cthomas@ceo.lacounty.gov.

SAH:JJ:FD
CT:VH:km

Attachment

c: Executive Office, Board of Supervisors
Auditor-Controller
County Counsel
Internal Services Department

Attachment



COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 383
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-0636

MEMBERS OF THE BOARD

HILDA L. SOLIS

MARK RIDLEY-THOMAS

SHEILA KUEHL

DON KNABE

MICHAEL D. ANTONOVICH

PATRICK OGAWA
ACTING EXECUTIVE OFFICER

November 10, 2015

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol
Sacramento, CA 95814

Dear Governor Brown:

We are writing to urge State leadership in implementing the Office of Management and Budget's (OMB) Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards, which commonly is called the "OMB Uniform Guidance."

This new OMB guidance, which was released on December 26, 2014, includes a new requirement that pass-through entities (including State and local governments) which hire nonprofit organizations to deliver federal-funded services must reimburse nonprofits for a reasonable share of their indirect (overhead) costs of providing such services. It requires that most nonprofits be reimbursed at a standard minimum rate of no less than 10 percent of their modified total direct costs. Nonprofits which have a negotiated a federal indirect cost must be paid that rate.

These new reforms were promulgated in response to numerous government and independent studies which found that the failure to reimburse nonprofits for their indirect costs on grants and contracts not only undermines the financial health of such organizations, but also the effectiveness of service delivery. A recent Urban Institute study found that over 5,000 nonprofit organizations in California receive an estimated \$14 billion in government grants and contracts and that approximately 70 percent of the State's nonprofits report that the government funding they receive fails to cover the full cost of their services.

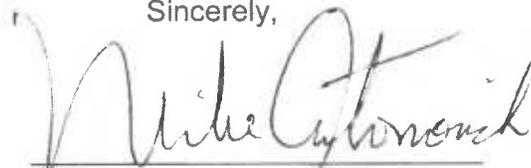
Nonprofit organizations are key partners with State and local governments in providing essential federal-funded services, such as health, social services, housing, and employment and training services. All Californians who are served by them would benefit if they are reimbursed for their full cost of delivering services, including their overhead costs.

The Honorable Edmund G. Brown, Jr.
November 10, 2015
Page 2

The State of California receives far more Federal funding than any other pass-through entity in California. The State, therefore, can perform a critically important role in implementing the new OMB Uniform Guidance requirements to pay nonprofits for a reasonable share of their indirect costs.

We would appreciate your leadership and assistance on this important matter.

Sincerely,



MICHAEL D. ANTONOVICH
Mayor of the Board



HILDA L. SOLIS
Supervisor, First District



MARK RIDLEY-THOMAS
Supervisor, Second District



SHEILA KUEHL
Supervisor, Third District



DON KNABE
Supervisor, Fourth District

c: Finance Director Michael Cohen